

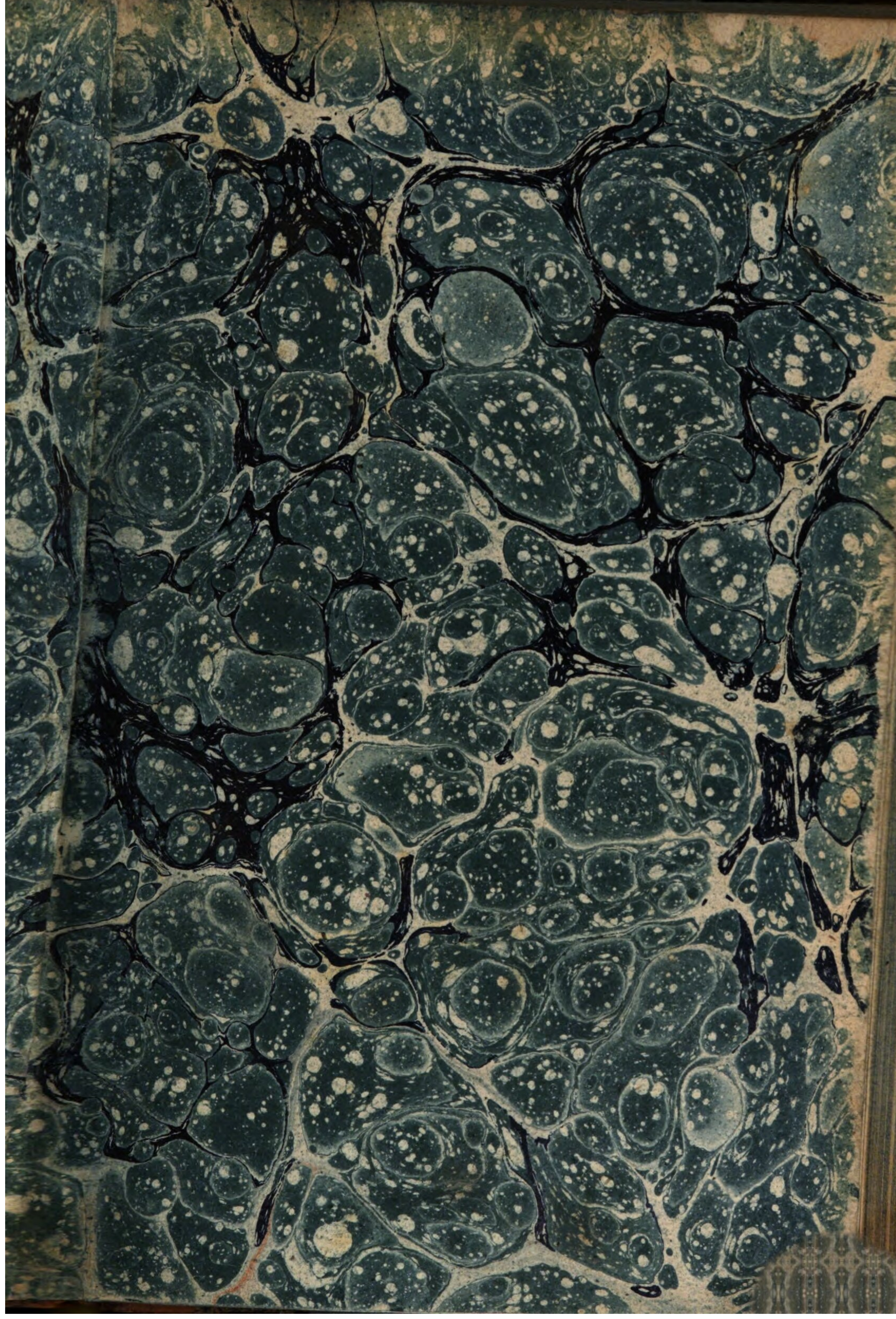
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O R I G I N and L I M I T A T I O N S
O F T H E
Feudal Dignities of SCOTLAND.

A
UNIVERSITY
OF THE
ORIGIN AND LIMITATIONS
OF THE
Feudal Dignities of Scotland.

A N
I N Q U I R Y
I N T O T H E
O R I G I N and L I M I T A T I O N S
O F T H E
F E U D A L D I G N I T I E S
O F
S C O T L A N D.

By WILLIAM BORTHWICK, Esq;

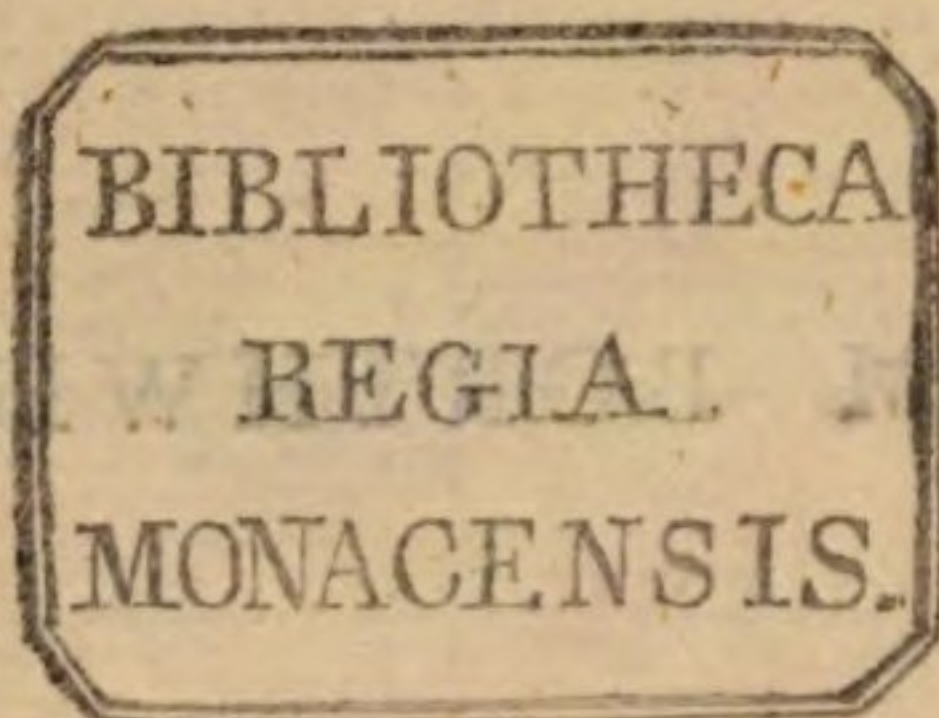
—— *Genus unde Latinum,
Albanique patres, atque altæ mœnia Romæ.* Æn. i. 10.

*From whence the race of Alban fathers come,
And the long glories of majestic Rome.* Dryden.

EDINBURGH:

Printed for WILLIAM GORDON. 1775.

IN QUO
ENTIT
ORIGIN AND LIMITATIONS
OF THE
FEUDAL DIGNITIES
OF
SCOTLAND



EDINBURGH:
Printed for WILLIAM GORDON

T O

THE RIGHT HONOURABLE,

C H A R L E S

L O R D B I N N I N G,

THE FOLLOWING PAGES

ARE DEDICATED

B Y

H I S L O R D S H I P's

MOST OBEDIENT SERVANT,

WILL. BORTHWICK.

TO

THE RIGHT HONOURABLE

C H A R L E S

L O R D B I N N I N G

THE FOLLOWING PAGES

ARE DEDICATED

BY

HIS LORDSHIP

MOST OBEQUIENT SERVANT,

WILLIAM BORTHWICK

To the PUBLIC.

THE following pages are intended to exhibit a view of the limitations of the ancient dignities of SCOTLAND. Perhaps some points set forth may be reckoned *new*; however, they are so *old*, and were once so well understood in Scotland, that they would have been easily comprehended by the most illiterate three hundred years ago. A tedious preface to a small treatise would be truly preposterous. The reader, it is hoped, will consider these pages with impartiality, and supersede forming any judgement on the subject until he makes a thorough search into those records from which the state of facts are taken.

Crookstown, May 16. 1775.

To the PUBLIC

THE following papers are intended to exhibit a view of the influence of the ancient sciences of SCOTLAND. Perhaps some points will be noticed as new; however, they are so old, and so well understood in the island, that they would have been easily comprehended by the most illiterate three hundred years ago. A tedious preface to a small treatise would be truly superfluous. The reader, it is hoped, will consider these pages with impartiality, and suspend his own judgment on the subject until he makes a thorough search into those records from which the state of facts are taken.

Edinburgh May 16 1775

A N
I N Q U I R Y

I N T O

The Origin and Limitations of
the FEUDAL DIGNITIES of
SCOTLAND.

NO nation exceeds Scotland for the antiquity of its Noble families; at the same time the inhabitants of no country have been more unfortunate in the preservation of their ancient writings. The public records of Scotland now remaining, are vastly defective; and the private writings of the country, excepting a few in the hands of some individuals, are entirely lost. To ascertain when honours were first introduced into this country, and what families first enjoyed dignities, is therefore
A impossible.

impossible. However, from such records and private-family documents as have escaped the injury of time, it is possible to discover, that peerages have been enjoyed in Scotland at a very early period. From these remains of antiquity, too, we may discover the limitation of the succession to those ancient peerages.

As far back as peerages can be traced, they are territorial, founded upon a tract of land erected into a lordship or an earldom. A mere personal peerage, in the ancient history of Scotland, never was known. In England too, even so late as the 1500, we may observe, that when the Kings of that country thought proper to raise a person to the dignity of the peerage, they always granted something along with it; a thing as useful in life as a title. They allowed the peer either a portion of land, or a salary, to support the dignity of the peerage.

When the Kings of this country ennobled a person, they either granted a charter of erection of his land-estate into that rank which they meant the person to enjoy, as into a *comitatus*, or a *dominium*; or, in parliament, they girt him with a sword, declaring,

declaring, at the same time, the titles and rank which it was intended the party should enjoy. If the dignity was conferred by erection of the land-estate, the King mentioned in the charter by what style the new peer should be known. And it is observable, that after a family was once ennobled, although the King *de novo* erected the land-estate into a *dominium*, or a *comitatus*, yet he did not then recapitulate the titles of the family, nor express any right of sitting in parliament. These were unnecessary; because it was always understood, that the peerage and the estate were to descend to the same series of heirs. When a peer resigned his earldom or lordship in the King's hands, in favour of himself, and a certain series of "*heirs-male*," it was unnecessary that the King, in the new charter of the estate, should say, that the title of honour founded upon the land-estate was limited to *heirs-male*.

The earliest appearance of peers in Scotland is under the description of *Lord Barons*. But some of those families who originally enjoyed that rank of peerage in this country, having become extinct, and

others having been advanced to the rank of Earls, the present Lord Barons of this kingdom owe their nobility to a period much later than the Earls.

In the reign of Malcom III. Gospatrick Earl of Northumberland fled from England to avoid the resentment of the Conqueror, and took refuge with our King Malcom, who gave him the lands of Dunbar and Colbranspath in East Lothian. In the reign of David II. Patrick Dunbar resigned his estates of Dunbar and March in the King's hands; upon which the King granted a charter of the estate to George, the son of Patrick, "tenend. et habend. dicto Georgio Dunbar, et hæredibus suis, de nobis, &c. in unum integrum et liberum comitatum*," &c.

George Dunbar was afterwards styled by King David, "Dilectus consanguineus noster Georgius, Comes Marchie †."

The family of Dunbar were promiscuously designed Earls of Dunbar, and of March.

In a parliament held at Scoone, 5th Fe-

* Charter on record, b. 1. n. 196. an. reg. 39. 25th July.

† Charter, b. 1. N^o 244. 8th February.

bruary 1283, the following peers and great men of the kingdom were present.

Patrick Earl of Dunbar,

Alexander Cummin Earl of Buchan,

Constable of Scotland,

Malice Earl of Strathern,

Malcolm Earl of Lennox,

Robert Bruce Earl of Carrick,

Donald Earl of Marr,

Gilbert Earl of Angus,

Walter Earl of Monteith,

William Earl of Ross,

William Earl of Sutherland,

Magnus Earl of ——— aclyn *,

Duncan Earl of ——— †,

John Earl of Atholl.

These were all territorial peers. Their peerages were founded upon their dignified fiefs. They were all descendible to the persons who were the heirs of the investitures of their land-estates.

If any of those Lords died, the succes-

* This imperfect word must be a mistake in the record. If I might be allowed a conjecture, I think it should have been "*Orcaden*." Magnus was the surname of the Earl of Orkney at this period.

† Earl Duncan of Fife must have been the person meant here.

sion to his honours was to be regulated by the rule of succession to his land-estate, upon which his titles were founded. If any of them died without issue, the peerage went along with their family-estate to the nearest heir of their investitures, whether that heir was descended from the body of the person first ennobled of the family or not. That peerages without limitation should be limited to the descendants of the person first ennobled, is an abuse too great to be offered to the common sense of mankind.

In Scotland it seldom happened, that the peer in possession wanted representation sprung from himself. Many adventitious circumstances concurred favourable to the peers of ancient times on this head. In a country where every species of luxury and extravagance was hated and detested, the old lord had no occasion to interest himself in the matrimonial connections of the son. The inconveniencies sensibly felt in modern times, of too many generations in the direct line, could not occur in those days: on the contrary, what would be disagreeable from these circumstances to us in modern times, afforded the

the most comfortable reflections to our ancestors.

From these circumstances, a succession to a peerage rarely opened to any branch beyond the line of the descendants of the first peer. However, as no rank nor situation in life is exempt from common accidents, sometimes it happened, that there were no representatives descended from the first peer existing at the demise of the peer in possession. The question then arose, What became of the peerage? A previous question, however, must have been, "How stood the limitation of the earldom "or lordship which intitled the deceased "peer to sit and vote as a lord of parliament?"

If it appeared, that the *comitatus* or *dominium* held by the deceased peer in *libero comitatu*, or in *libero dominio*, was settled to heirs-male, then the person who under that character proved his propinquity, was acknowledged heir of the peerage, as well as heir of the land-estate.

If we turn our eyes towards our southern neighbours, we will observe, that with them ancient peerages were rarely limited: they

they most commonly went to the heir of the deceased.

From whence, then, have we received it as a rule, and as an infallible one too, that in Scotland peerages not constituted by patent are descendible only to the heir-male of the body of the person first ennobled? The question has never in modern times yet occurred, Whether or not a Scotch peerage without patent, can descend to collateral heirs beyond the issue of the person first ennobled? but the fact has several times occurred in Scotland. A person enjoying a land-estate limited to certain heirs-male, and a title of honour founded on that estate, has died without issue; and the land-estate, together with the peerage, has been taken up and enjoyed by the heir-male, though not sprung from the body of the first peer, without challenge or objection from any party having interest.

Since the union of the two kingdoms, from political motives, a number of people have been led to express extravagant notions with regard to the limitation of the peerages of Scotland. Opinions, too, have been propagated upon this subject,
I
from

from motives of interest and envy. The present peers of any kingdom have an evident interest that their number should be *few*; the bulk of the commoners of a country are prejudiced against such individuals as set up pretensions to a *rank* which the body of the people can never arrive at; and the few individuals who would wish to form their judgement on the subject upon just principles, have it not in their power to know the facts upon which their opinion ought to be founded.

In the year 1221, when Alexander King of Scotland settled Jedworth-forest, Hafsendean, and Lassuden, in Roxburghshire, on his consort Johanna, the sister of the King of England, there were two Earls witnesses to the deed of settlement;

Earl Patrick, and

William Cummin, Earl of Buchan, Justiciar of Scotland*.

There are no other peers witnesses to this deed: so that the rank of Lord Barons is not discoverable from it. We are,

* Original instrument in the tower of London, dated in 1221.

however, certain, that before this period there existed a peer of the Sutherland family, by the style of *William Lord Sutherland* *.

The Earl Patrick here named must have been Earl of Dunbarre and March. He must have had an earldom, although it is not mentioned in this transaction. At a time when there were few Earls, they would be distinctly known by their Christian names, as Earl Gilbert, Earl Patrick, Earl Duncan, &c.

Those peerages founded on territory, always went to the heir of the territory, whether heir-male or heir-general.

From the defect of records, it is impossible to make up a correct list of the persons who enjoyed the rank of Earls in the twelfth and thirteenth centuries. The most full list of Earls is that which I have already mentioned at the parliament 1283. In several instruments relating to Scotland in the tower of London, downwards to the 1300, some few of those Earls present at Scoone are named.

* Confirmation, dated in 1214, produced in the claim of the peerage of Sutherland.

I shall now go on to consider the other rank of peerage, the Barons.

It has hitherto been alledged by lawyers, and others who have had occasion to mention this order of peerage, that it had its rise in the reign of James I. of Scotland, who returned from England in 1424; and it has been set forth in law-papers, that this order of men were unknown in Scotland until the reign of that King.

There does not exist in the public records of Scotland any patent in King James's reign constituting any of the ancestors of our present Barons peers; so that the lawyers of this country could not have discovered the origin of those peerages from record. From whence their origin can be discovered, I am yet to learn. I treat this point with very great diffidence; and if I shall err, I will be proud, upon conviction of my mistakes, to confess them.

IN order to ascertain this point, I propose to arrange the consideration of it under two heads.

1st, A review of such ancient instruments

ments as are extant, in which persons of this rank of peerage are mentioned.

2dly, A review of the laws of James I. that the constitution of the Scotch parliament may be discovered.

F I R S T H E A D.

Review of ancient instruments.

IN the year 1292, the King of England being in the castle of Stirling, receiving *homage* from the landed persons of Scotland, there were present a number of the nobility. Among the nobility, appears John Comyn Lord Badenough. — The words in the original run thus :
 “ Presentibus ibidem nobilibus viris Do-
 “ minis Johanne Comyn Domino Bade-
 “ nogh,” &c. *

If this person was not a peer, why is he called a *Noble Lord*? and if he was only a commoner, where was the occasion of describing him in any form different from the other gentlemen mentioned along with him?

* Rymer's *Fœdera*, vol. 2. p. 571. — In p. 575. he is styled *Seigneur de Badenogh*.

A number of examples of this kind, where persons are described to have been *Lords*, occurs in writings of the thirteenth century. To recite them would be tedious. The reader who is curious of investigating this point, will easily satisfy himself, by looking at the testing clauses of a few ancient charters relating to Scotland, either in the tower of London, or in the record of the great seal at Edinburgh.

Every person in Scotland whose family had once been ennobled, holding lands of the King *in libero dominio*, had a right to be styled *Lord*.

When a person in ancient times appeared in parliament, if he held his lands *in libero comitatu*, he was marked down *Comes*; if he held his lands *in libero dominio*, he was marked *Dominus*; if he held them only *in libera baronia*, he was marked *Baro*.

If, then, it shall appear, that lands were held *in libero dominio* prior to the reign of James I. there must have been *Lords* in Scotland before the reign of that prince.

In a number of instruments long before the year 1424, the ranks of men in Scotland

are described thus : “ *The Earls, Prelates,*
 “ *LORDS, Barons, and great men of the*
 “ *kingdom* *.”

A charter by William I. dated in 1171, of the earldom of Marr, to Morgund, the son of Gillocherus Earl of Marr, runs thus : “ Willielmus Rex Scotorum univer-
 “ fis Episcopis, Comitibus, Abbatibus,
 “ Prioribus, *Baronibus*, Militibus, Thanis,
 “ et Præpositis, et omnibus aliis probis
 “ hominibus totius terræ suæ, tam clericis,
 “ quam laicis, salutem eternam in Domi-
 “ no,” &c.

This instrument is to be found in Selden’s *Titles of Honour*, p. 848. If it proves the existence of Earls and Abbots in 1171, it is equally good evidence of the existence of *Barons*, as a higher rank than Knights.

In *Leland*, vol. 2. p. 9. there is an abstract of a book intitled, *How England should have homage and fealty of Scotland*. There occurs the following passage

* “ Prælati, Comitibus, *Baronibus*, Magnatibus,
 “ Proceribus, existentibus tunc ibidem.”——

Original instrument in the tower of London, dated in 1292, — transcribed into Rymer’s Fœdera Angliæ, vol. 2. p. 597.

in

in it : “ Then Edward Baliol drew to him
 “ divers *Lords* and Gentlemen,” &c.

Although the earliest appearance of nobility in any of the families of our present Barons is only in the beginning of the fifteenth century ; yet it is highly probable that their ancestors arrived at that dignity long before that period. Though we cannot discover a Lord Sommerville, Gray, or Borthwick, earlier than about the year 1424, we are not therefore to conclude, that those persons were newly ennobled at the period when we discover them on record. It was adjudged by the House of Lords, in the year 1762, that there existed a William Lord Borthwick, a peer of Scotland, in the year 1421 ; and it appears from an instrument in the tower, that the peerage of Sommerville existed in the year 1423.

Nor is it any objection to what I have suggested, that those persons whom I mention as peers have, at later periods, been described simply by their land-estates, without any mention of their dignities. For it appears from a decree of parliament, dated 17th March 1429, lib. 3.
 N^o 18.

N^o 18. of the record, that the following
Lord Barons were present ;

Abercorn,
Dalkeith,
Erskine,
Lochow,
Gordon,
Dirleton,
Sommerville,
Maxwell,
Montgomery.

These persons were Lords of parliament beyond all doubt ; yet it also appears from record, that at a later period several of them were designed simply by their land-estates.

In 1439, Lord Dalkeith is designed in a charter from the King, “ James Douglas
“ of Dalkeith *.”

In 1442, Lord Lochow, in his foundation-charter of the collegiate church of Kilmun, is designed, “ Duncanus Campbell de Lochow, Miles †.”

In 1430, Lord Montgomery, in his

* Lib. 5. N^o 135.

† Foundation-charter by Duncan Campbell, dated in
1442.

commission from the King to be Governor of Kintyre and Knapdale, is simply described, "Alexander Montgomery of Ardrossan *."

In 1434, the Lord Sommerville, in a charter mortifying some lands for pious uses, is described, "Thomas Sommerville of Carnwath;" and *Lord Maxwell*, who is a witness to it, is only designed, "Herbert Maxwell of Carlaverock."

In the record of parliament 1434, Lord Dirleton is only marked, "Walterus de Halyburton et Dirleton."

From these facts it is clear, that a person who was truly a *peer* might be sometimes designed in the manner of a commoner; and hence it follows, that though the first Lord Sommerville, for example, discoverable on record, is in the year 1423; yet that person may have been a peer much earlier: nor, from the manner of his designation, is it impossible but that he may have been the son of a former Lord.

A list of Lords before the year 1421 is difficult to discover. However, from the imperfect scraps of records remaining, we

* Lib. 3. N^o 60.

are certain of the existence of that order as early as the year 1300*.

Supposing a list of a thousand names under the character of Lords of Parliament of Scotland, anterior to the thirteenth century, to exist, it could afford no stronger proof that such a rank then existed, than a smaller number well attested. Though, through the fatality of time, the investitures of many of our ancient lordships are lost; yet there remains irrefragable evidence upon the subject.

There existed, before the reign of James I. the following *Lord Barons* of Scotland, at different periods; it is impossible to give an account of them existing at one time.

William Lord Sutherland,
 Lord Lyndsay and Crauford,
 Lord Badenough,
 Lord Strathbolgie,
 Lord Douglas,
 Lord Brechin,
 Lord Galloway,
 Lord Liddefdale,
 Lord Graham of Kincardine.

* Rymer, vol. 2. p. 597.

It is certain that those others must have been universally acknowledged as *peers*, by the same authority as Lord Graham is acknowledged, which was no less than the supreme legislative authority of this kingdom. The whole of those persons I have named as *peers*, are proved by incontestable evidence to have been many times described under that character. To recite the different instruments relating to them would be very tedious. I shall only state evidence, that the Noble family of Montrose enjoyed the rank of *peers* in this country *before the return of James I. from England.*

If it is proved that any one family enjoyed the rank of Lords of Parliament before that period, no prejudice can arise to the other Noble families of the kingdom from the supposition that no such order of *peers* then existed. If it shall appear that the family of Montrose enjoyed the rank of *Lord Barons* before the year 1424, it ought not henceforth to be reckoned impossible that *the present Lord Barons* should derive their dignity from a coeval period. The imperfection of our records about that time, is well known to every person who

has the slightest acquaintance with them. If ten instruments existed in the year 1400, it is no unreasonable presumption to presume that nine of the ten are lost.

On the 1st of September 1413, Henry V. of England grants a letter of safe conduct to Walter Bishop of Brechin, William Lord Graham *, and Robert of Lany †.

That Lord Graham must have been a *peer* in the strictest sense of the word, is plain. The very next paper on the same record, is a safeguard in favour of James Hamilton of Hamilton, dated the 6th of the same month: but the manner of his designation is very different from that of *Graham*. He is designed, *Jacobum de Hamilton*.

In an instrument, copied into Rymer's *Fœdera*, vol. 9. p. 101. the following peers of Scotland, in 1414, besides *Lord Graham*, are mentioned.

* He is designed in the original instrument, *Willelmum Dominum de Graham*.

† The contrast between the mode of designing this gentleman and Lord Graham, is very conspicuous.

“ Comite

“ Comite Marchiæ de Scotia,
Domino de Man,
Domino Insularum de Scotia.”

And in another part of the same instrument the two last peers are mentioned thus: *Donaldo Domino Insularum, Johanne Stanley pro dominio de Man.*

In the year 1416, William Lord Graham gets a charter of the barony of Mellenok, in which he is designed, *Willielmo Domino Graham.*

And the same Lord gets a charter of the lands of *Aldmontrose*, dated the 4th August 1420, *Willielmo Domino de Graham* *.

From these facts, then, it will be fairly proved, that there were *Lords* in Scotland before the return of James I. from England in the year 1424.

* These charters are on the record of the great seal at Edinburgh.

S E C O N D

S E C O N D H E A D.

Review of the laws of James I.

THE next point to be reviewed is the laws of James I. that from hence we may discover the constitution of the Scots parliament.

From the act 1427, it is evident that the distinction between Great Barons, or Lords of Parliament, and Small Barons, was established before that year.

The statute runs thus: *That the small barons and freeholders need not come to parliament, &c. if they sent for each sherriffdom, according to its largeness, two or more wise men, except for the shires of Clackmannan and Kinross, each of which were to send but one, chosen at the head courts of the sherriffdom, to be their commissars or commissioners in parliament, who were to choise one to be common speaker of the parliament, to propone all causes to be proponed in parliament, and also their charges borne by such in each shire as owed compearance in parliament: but all Bishops, Abbots, Priors, Dukes, Earls, Lords of*

of Parliament, and Barrents, were to be summoned to parliament by the King's special precept.

This act does not make the distinction between the great and small Barons, but supposes it to have been generally known before: for it must have been known either by some law or custom introduced before that time, who those persons were who are styled *Lords of Parliament*, and who were to be summoned to parliament, as well as Dukes and Earls; else how could the designation, of *Small Barons*, and of *Lords*, have been here so familiar, or of any use? or what certainty could there have been in such indefinite expressions, unless the meaning of them had been determined? Among the acts of James I. there is no law making any difference among the *Barons*; therefore it may be fairly presumed that the distinction was well known long before the reign of that King.

Of the limitations of the baronies of Scotland.

I do not propose to enter deeply into
this

this question. I only mean to state a few facts upon the subject. The Barons must excuse me for what I state on this point. It is no secret to the public that I am interested in the subject; and it will not be suspected, that any thing suggested by me will be prejudicial to their order.

The following existing peerages appear on record between the years 1400 and 1500.

Sommerville,
Gray,
Forbes,
Cathcart,
Semple,
Salton.

None of them were constituted by patent; so that it is impossible to say how they stood originally limited. I have not had occasion to see the investitures of the land-estates of those peers; and though I had, I should not perhaps have thought myself at liberty to lay them open to public view. The presumption however is, that all the Barons of the fifteenth century held their peerages under similar limitations. Besides those Lords I have mentioned, there likewise existed the following

ing peerages of the rank of Barons in the fifteenth century, along with several others.

“ Stuart Lord Lorn,

“ Stuart Lord Evandale,

“ Borthwick Lord Borthwick.

In the year 1452, John Stuart enjoyed the dignity of *Lord Lorn*. On the 20th of June that same year, a royal charter limits “ the *dominium de Lorn*, baronia de Innermeath, &c.” Johanni Domino Lorn, et *hæredibus masculis* de corpore suo legitime procreatis feu procreandis; quibus forte deficientibus, Waltero Stewart, fratri germano dicti Johannis, et *hæredibus masculis* de corpore suo, &c.

John Lord Lorn died without *male issue*. He left a daughter, married to Colin Earl of Argyle: yet the peerage went along with the estate to Walter Stewart, the *brother* of the peer *.

This instance, although no other occurred in the annals of Scotland, is a convincing proof, that peerages descended to the brother of the person ennobled. Evan-

* John Stewart was the first peer of the family of Lorn;—a material circumstance in this disquisition.

dale and Morton confirm the opinion : it is hoped the question will never occur in the case of Borthwick.

Case of Evandale.

In the year 1456, Andrew Stewart was created Lord Evandale. He died in the year 1488 without male issue. His estate and his peerage descended to his nephew Alexander Stewart, the son of Walter, the brother of the first peer. It will not be seriously asserted, that this was a peerage held by a tenure different from the other coeval peerages of the country : had the peerage of Evandale been constituted by any deed different from the investitures of the land-estate, that instrument would appear on record. The near connection between the family of Evandale and the Royal family of Stewart, warrants us to make this supposition :—the more especially are we intitled to make it, that the legislature of this country discovered so much anxiety in ascertaining the legitimacy of this Lord and his brother in the year 1479.

Having thus stated the facts with regard

gard to Lorn and Evandale, I should next enter upon the limitations of the peerage of Borthwick.—By a royal charter of the Lordship of Borthwick, in favour of the fourth Lord Borthwick, the dignified fief stands limited to a series of heirs *nominationis*.—Propriety forbids me to say more on the subject of this peerage. It is generally known, that the title to it is become the subject of litigation before an august assembly.

If a doubt should ever arise concerning the descent of any of those peerages not constituted by patent, the only sound principle to decide upon must be, the course of succession of coeval peerages. In a question concerning the succession to a peerage which existed in the fifteenth century, a presumption arises from the manner of succession in families ennobled at the same period. In the families where the dignified fief stands limited to a certain series of heirs, there cannot remain a doubt, but that those heirs, one after another, are intitled to the peerage as well as to the land-estate; but where no limitation of the land-estate appears, the only rule must be, the prevailing course of suc-

cession in similar cases. Because modern patents in England generally stand limited to the heirs-male of the body of the person ennobled, we are not therefore to presume, that ancient titles of honour stood so limited. This would be contrary to the rules of moral evidence.

In the year 1432 we have an example in England of a person created a Lord Baron without any limitation of heirs *.

Having thus stated my observations on this subject, I must conclude with this remark, That if the ancient peerages of this country were not *territorial*, many of our Nobility have been *usurpers*; and several of them, at this day, only hold their dignities by a doubtful prescription. But if our peerages were territorial, it follows, that there has been no usurpation in the case; and that the present Noble families enjoy their dignities by unexceptionable rights.

Having finished the remarks I intended on the *peerages* of this country, I take the liberty to exhibit to the reader a list of the

* Original patent of the barony of *Fawnhope* in the tower of London.

ecclesiastical persons who had lands in Scotland in the year 1296. The list is taken from the original instrument in the tower of London ; it is to be found an. 24. E. 1. Rot. Scot. e. 1. m. 11. and 10. Upon their having sworn fealty to King Edward, they got letters to the different sheriffs in whose jurisdiction their lands lay, ordering them to be put in possession.

Prior Sancti Andreæ, Vicecomitibus de Edinburgh *, Fif, Perth, Kingkerdin, Aberdeen, Forfar, and Ber.

Abbas de insula Sancti Columbi, Vicecomitibus de Fif, Rokisburghe, Perth, Edenbourshe.

Abbas de Sancta Cruce, Vicecomitibus de Strivelyne, Dumfries, Edenbourshe, Berwick.

Abbas de Coupre, Vicecomitibus Forfare, Pert.

Priorissa Sancti Leonardi, juxta villam

* It appears, that in the year 1543 the see of St Andrew's held a very considerable property in the county of Mid-Lothian. By a charter dated that year, the Archbishop of St Andrew's grants that tract of country, known by the name of *Gala-water*, to the Lord Borthwick, and his heirs-male.

Sancti Johannis, Vicecomitibus Perth,
Edenborough, Haddington, Fif.

Priorissa de Manwell, Vicecomitibus de
Berwick, Edinboure, Linliske, Are.

Priorissa de Northberwick, Vicecomitibus
de Fife, Haddington, Edinboughe, Ber-
wike, Rokisburge.

Priorissa de Eccles, Vicecomiti de Bere-
wike.

Abbas de Newbotle, Vicecomitibus de E-
dinboughe, Berwike.

Magister Walterus de Lillisleaf, Parsona
ecclesiæ de Kirkbryde, Vicecomiti de
Dumfrize*.

Abbas de Dryburgh, Vicecomitibus de
Fif, Berwike, Rokisburge, Edinburge.

Petrus de Campania, Parsona ecclesiæ de
Kynkell, Vicecomiti de Abirdine.

Abbas de Skanskinnel, Vicecomitibus de
Strivelyne, Edinburge, Fif, Perth.

Johannes Cornhole, Vicarius ecclesiæ de
Dudynston, Vicecomiti de Edinburge.

Willielmus Kynghorn, Parsona ecclesiæ de
Liston, Vicecomiti de Edinburge.

* It is highly probable, that this "Walterus de
"Lillislefe," or his ancestors, have been proprietors
of the estate of Lillisleaf, now *Riddel*, in Roxburgh-
shire.

Abbas de Alnwyk, Vicecomiti de Berwike.

Priorissa de Linclouden, Vicecomiti de Dumfrize.

Adam Lamb, Parsona ecclesiæ de Polwarth, Vicecomiti de Berwicke.

Dungallus, Abbas de Sacra Nemore, Vicecomiti de Dunfres.

Henricus Lemoton, Parsona ecclesiæ de Duns, Vicecomiti de Berewyk.

Henricus, Vicarius ecclesiæ de Loghrynton, Vicecomiti de Dunfres.

Henricus Strivelyn, Parsona ecclesiæ de Upfetelington, Vicecomiti de Ber.

Willielmus, Parsona ecclesiæ de Aldham, Vicecomiti de Edinburgh.

Robertus Ramefy, Parsona ecclesiæ de Fuldene, Vicecomiti de Berewyk *.

Andreas, Parsona ecclesiæ de Goger, Vicecomiti de Edinburgh.

* As the barony of Foulden, in Berwickshire, belonged to the Noble family of Dalhousie, at a very early period, it is extremely probable, that the "Robert Ramsay" here mentioned was a younger son of that family, — and ancestor of the Ramsays of Inverleith. In 1446, Robert Ramsay of Inverleith resigns his lands of *Crookston*, in the barony of Dalwolsy, in favour of "John, the second son of the Lord of Borthwick."

Johannes Frefel, Archidiaconus de Sancto
Andrea, Vicecomiti de Fif.

Frater Willielmus Corbet, Magister Domus
Sancti Lazari de Harop, Vicecomiti de
Edenburgh.

Stephanus Kyngorn, Parsona ecclesiæ de
Pentland, Vicecomiti de Edenburgh.

Walterus, Parsona ecclesiæ Marton, Vice-
comitibus de Dunfres, Berewyk.

Abbas de Jeddeworth, Vicecomiti de Bere-
wyco.

Magister Hospitalis Sancti Leonardi de
Lonweder, Vicecomiti de Berewyco.

Abbas de Kilwinnyn, Vicecomiti de Are.

Walterus Edger, Parsona ecclesiæ de Pem-
cock, Vicecomiti de Edinburgh.

Abbas de Keldston, Vicecomiti de Bere-
wyco.

Walterus Herok, Decanus ecclesiæ Mo-
ravienfis, Vicecomiti de Junervan.

Nicholaus del Camb, Vicarius ecclesiæ de
Grenelawe, Vicecomiti de Berewico.

Magister Henricus Bauf, Cancellarius ec-
clesiæ Moravienfis, Vicecomiti de Inreniff.

Robertus Rameseye, Parsona ecclesiæ de
Fulden, Vicecomiti de Berwico.

Alexander Puntumby, Parsona ecclesiæ de
Kyrkum

Kyrkum in Rennes, Vicecomiti de Wiggeton.

Robertus, filius Radulphi, Parsona ecclesiæ Sancti Cuthertide Ewytesdale, Vicecomiti de Dumfres.

Willielmus Kyngorn, Parsona ecclesiæ de Lyfteton, Vicecomiti de Edenburgh.

Johannes Cornhall, Vicarius ecclesiæ de Duddinggeston, Vicecomiti de Edenburgh.

Abbas de Newbolet, Vicecomiti de Strivelyn.

Prior Sancti Andreæ, Vicecomiti de Clackmanan.

Andreas, Vicarius ecclesiæ de Dalgarnock, Vicecomiti de Dumfres.

Magister Militiæ Templi in Scotia, Vicecomitibus de Edenburgh, Berewick, Rokesburgh, Strivelyn, Lanark, Dumfres, Dunbretan, Pebles, Wyggeton, Foreys, Elgyn, Claonanan, Rotherglen, Forfare, Kynros, Oughtrardoner, Kyncardyn, Aberden, Perth, Fif, Are, Bauf, Innerrenys, Crumbantyn, Dyngnale, Innervarn, et Selkirk.

Magister Willilmus Cluny, Præcentor ecclesiæ de Breghenyns, Vicecomiti de Forfare.

Simon, Parsona ecclesiæ de Meddelby,
Vicecomiti de Rokeburgh.

Richardus, Parsona ecclesiæ de Linton,
Vicecomiti de Edinburgh.

Edm. Letham, Parsona ecclesiæ de la
Foreste, Vicecomiti de Pelbles *.

Minister Ordinis Sanctæ Trinitatis et
Captivorum de Berewyk, Vicecomitibus
de Forfare, Berewyk, Rokeburgh.

Minister Willielmus, Archidiaconus de
Landoma, et Parsona ecclesiæ de Kelde-
leth, Vicecomiti de Edinburgh.

Ferquardus, Parsona ecclesiæ de Stro-
brock, Vicecomiti de Edinburgh.

Magister Walranus, Parsona ecclesiæ de
Yetham, Vicecomiti de Rokeburgh.

Abbas de Lundas, Vicecomiti de Bere-
wick.

Abbas de Muros, Vicecomitibus de Bere-
wick, Are, Jeddeworth, Pelbles, Eden-
burgh, Rokeburgh, Dumfres, North-
umber. et Cumberl.

* It is certain that this must mean "the for-
rest of Etterick;" and it is very likely that this
was the only church in Etterick forest in the year
1296.

Abbas de Skamfkynel, Vicecomiti de Berewyk.

Prior de Wythorne, Vicecomiti de Wyggeton.

Magister Nicholaus de Merton, Parsona ecclesiæ de Kynneclis, Vicecomiti de Forfare.

Willielmus Spot, Parsona ecclesiæ de Tynnyngham, Vicecomiti de Edinburgh.

Priorissa de Sancta Boychanna, Vicecomiti de Berewyk.

Willielmus, Vicarius ecclesiæ de Dunmyn, Vicecomiti de Edinburgh.

Edwardus, Vicarius ecclesiæ de Wedhale, Vicecomiti de Edinburgh *.

Abbas de Donquere, Vicecomiti de Karl.

Magister Hospitalis Sancti Johannis Jerusalem in Scotia, Vicecomitibus de Rokeburgh, Berewyk, Foreys, Bauf, Pebbles, Clatmanan, Are, Kynros, Wyggeton, Lanark,

* Wedhale, or Weddail, was the name of that district now called *Stow parish*. It is not remarked for any circumstance in history, excepting that in the fourteenth century the inhabitants of this division were invaded by their neighbours of *Melrose*. A smart conflict ensued on a hill-side in the neighbourhood of Stow, in which the inhabitants of Gala water were sadly worsted. The country-people

Lanark, Dunfres, Elgyn, Selkirk, Dingualle, Perth, Jurenay, Strivelyn, Fif, Jurenys, Dunbretan, Kingcardin, Edenburgh, Forfare, Aberdin.

Adam, Parsona ecclesiæ de Dupply, Vicecomiti de Perth.

Bartholemeus, Magister Domus Sancti Germani juxta Hadyngton, Vicecomitibus de Berewyk, Edenburgh.

Priorissa de Hadington, Vicecomitibus de Berewyk, Fif, Hadyngton.

Johnannes, Archidiaconus Sancti Andreae, Vicecomiti de Forfare.

Abbas de Dundernau, Vicecomitibus de Berewyk, Cumber.

Alanus, Parsona ecclesiæ de Roule, Vicecomiti de Rokeburgh.

Prior de Karl, Vicecomiti de Are.

Bernardus Linton, Parsona ecclesiæ de Mordyngton, Vicecomiti de Berewyk.

have entirely lost any oral account of this affair; only they shew the field of action, which, on account of the unnatural circumstances attending it, is called, *The murder-cleugh*.

The censure of the church was inflicted on the *Melrosfemen*, for their barbarous conduct in this affair.

Fordun, vol 2.

Abbas

Abbas de Scone, Vicecomitibus de Inner-
nys, Forfare, Perth, Edenburgh, Aber-
den, Strevelyn.

Adam, Parsona ecclesiæ de Shoulden, Vi-
comiti de Rokeburgh.

Patricius Gurleye, Parsona ecclesiæ de
Loghorward *, Vicecomiti de Eden-
burgh.

Magister Domus Dei de Jeddeworth, Vice-
comiti de Rokeburgh.

Magister Willielmus Cramund, Parsona ec-
clesiæ de Wynchedurres, Vicecomiti de
Dunfres.

Magister Alanus Dunfres, Parsona ecclesiæ
de Dunbretan, Vicecomiti de Dunbre-
tan.

Magilinus Ramefeye, Parsona ecclesiæ de
Cocpen, Vicecomiti de Edenburgh.

Magister Robertus, Parsona ecclesiæ de
Kynef, Vicecomiti de Kincardyn.

Magister Hospitalis Sanctæ Mariæ Virginis

* This is *Ledgertwood* in Berwickshire, which an-
ciently belonged to the Stewards of Scotland. The
barony was granted about the year 1400 to the fami-
ly of Borthwick.

The parson of *Ledgertwood*, in 1296, here named,
appears to have been a younger son of the family of
Gourlay of *Kincraig*.

de Rocherford, Vicecomiti de Rokef-
burgh.

Robertus Strivelyn, Parsona ecclesiæ de
Cranshawe, Vicecomiti de Berewick.

Magister Willielmus Dundee, Parsona eccle-
siæ de Alneth, Vicecomitibus de Aber-
den, Bauf.

Willielmus, Parsona ecclesiæ de Barewe,
Vicecomiti de Edinburgh.

Frater Willielmus Magister Domus Sancti
Augustini de Seggedin, Vicecomiti de
Berewyk.

Robertus Lamberton, Parsona ecclesiæ de
Waleston, Vicecomiti de Lanark.

Nicholus, Vicarius ecclesiæ de Lessewade,
Vicecomiti de Edinburgh.

Mauricius Lunel, Parsona ecclesiæ de Par-
va Caures, Vicecomiti de Rokefburgh.

Willielmus, Vicarius ecclesiæ Sanctæ Tri-
nitatis de Berewyk, Vicecomiti de Bere-
wyk.

Willielmus, Custos Hospitalis Sancti Jo-
hannis de Hoton, Vicecomiti de Rokef-
burgh.

Magister Nicholaus Louthmaban, Parsona
ecclesiæ de Strivelyn, Vicecomiti de
Pebles.

Radulphus

Radulphus de Hauden *, Parsona ecclesiæ de Whytesum, Vicecomiti de Berwe-
wyk.

Magister Hospitalis Beatæ Mariæ Magdale-
næ extra Berewyk, Vicecomiti de Bere-
wyk.

Johannes Hayton, Custos Hospitalis Sancti
Leonardi de Torrens, Vicecomiti de La-
nark.

Eustachius Bykretton, Parsona ecclesiæ de
Ughertermokody, Vicecomiti de Fyf.

Bartholomeus, Magister Domus Sancti Ger-
mani de Tranenynt, Vicecomiti de A-
berden, Kyncardyn.

Magister Nicholas Balmyle, Parsona ec-
clesiæ de Caledore, Comitis, Vicecomiti
de Edinburgh.

Abbos de Dunfermelyn, Vicecomitibus de
Forfare, Perth, Clacmalan, Pebles, E-
denburgh, Rokeburgh, Berewyck,
Fif.

Adam Selkirke, Parsona capellæ Castri de
Rokeburgh, Vicecomiti de Rokeburgh.

* This *Radulphus de Hawden* was proprietor of the
lands of *Hawden*, or *Howden*, in Channelkirk parish,
Berwickshire.

Conenallus, Parsona ecclesiæ de Cambuslank, Vicecomiti de Berewyk.

Th. Candidæ Casæ Episcopus, Vicecomiti de Cumbr.

David, Parsona ecclesiæ de Hilton, Vicecomiti de Berewyk.

Magister Hospitalis Sanctæ Trinitatis de Honeston, Vicecomiti de Hadyngton.

Ailmerus de Scoftlawe, Parsona ecclesiæ de Douglas, Vicecomiti de Lanark.

Robertus Gedderworthe, Parsona ecclesiæ de Kyrmyghhel, Vicecomiti de Lanark.

Johannes Stowe, Parsona ecclesiæ de Glembny, Vicecomiti de Kyncardyn in Miernes.

Robertus de Walghton, Parsona capellæ de Walghton, Vicecomiti de Edinburgh.

Abbas de Gedderworthe, Vicecomiti de Rokesburgh.

Willielmus Kyngorn, Parsona ecclesiæ de Kelcyern, Vicecomiti de Inernys.

Andreas Garmagh, Parsona ecclesiæ de Danyot, Vicecomiti de Aberden.

David, Vicarius ecclesiæ de Foghon, Vicecomiti de Aberden.

Willielmus Wodeburn, Parsona ecclesiæ de

de Mynetowe, Vicecomiti de Rokef-
burgh.

Frater Thomas, Magister Domus Sanctæ
Trinitatis de Soltre, Vicecomitibus de
Edenburgh, et de Rokefburgh, Anegos,
Fyf, et Berewyk *.

Walterus

* Soltray was founded by Malcolm I. The building stood on the eminence of the hill now called *Soltray-hill*. Nothing now remains but a vault, the burial-place of the family of Maitland of Soltray.

In the year 1462, the whole lands belonging to the monastery of Soltre were granted by Queen Mary, consort to King James II. to the use of the Trinity college church of Edinburgh ; as appears by the following charter.

“ Mary, by the grace of God, Queen of Scotland, to the Reverend Father in Christ, Lord James, by the grace of God and the Apostolic See, Bishop of St Andrew’s, our dearest Cousin, whom we reverence with honour becoming such a father : Therefore know ye, Reverend Father, That, for the praise and honour of the Holy Trinity, of the ever-blessed and glorious Virgin Mary, of St Ninian the Confessor, and of all the saints and elect of God, we, the aforesaid Mary, with consent and assent of the illustrious Prince and Lord, James, our son, the invincible King of Scotland, and in perpetual memory hereof, for the salvation of the soul of the late illustrious Prince James King of Scots,

E

OUR

Walterus Kyreyngton, Parsona ecclesiæ
 de Dunnoter, Vicecomiti de Kyncardin.
 Johannes, Vicarius ecclesiæ de Langeton,
 Vicecomiti de Berewyk.

Frater

our late husband of pious memory, likewise for the
 souls of all the Kings and Queens of Scotland de-
 ceased, also for the salvation of the illustrious Prince
 our son James, the present King of Scotland, for
 the salvation of our own soul, those of our father
 and mother, ancestors, and of all the sons and
 daughters succeeding to and descending from them,
 and for the salvation of the Reverend Father in
 Christ, Lord James, present Bishop of St Andrew's,
 our dearest Cousin, and for the souls of all those
 whom consanguinity, affinity, or benefits, have en-
 deared to us, and of all those whom we have any
 wise offended in this life, to whom we are obliged to
 make satisfaction, and for the souls of all the faith-
 ful deceased,

We hereby make, constitute, and ordain, and for
 ever found, a provostry, for a provost, who shall
 preside in the government of the collegiate church,
 both in respect to the choir and divine worship per-
 formed therein, with eight prebendaries, and two
 boys, with a sufficient maintenance here under spe-
 cified; and we likewise make, constitute, and or-
 dain, and perpetually establish, the provostry of the
 said collegiate church of the Holy Trinity, near
 Edinburgh, upon the following fruits, as hereafter
 modified.

The provost of the said college shall, for his sub-
 sistence, have the church of *Soltre*, with the burdens
 the

Frater Bartholomæus, Magister Domus
Sancti Germani juxta Hadyngton, Vi-
cecomiti de Fif.

Willielmus Blida, Parsona ecclesiæ de
Chirenside, Vicecomiti de Berewyk.

Richardus

the said church is subject to, viz. the vicar of the said church his pension shall sustain three persons residing there, and shall keep the church and ornaments thereof in good repair; and the said provost shall likewise have the lands of *Soltre Barns*, together with the town and lands of Hangingshaw, in the lordship of Herriot-muir, together with the kirk of Limpetlaw in Tiviotdale, with all the fruits thereunto appertaining; for which the said provost shall be liable to pay to the bishop and archdean the several profits they formerly received from the said churches.

The first prebendary shall be called the *Master of the hospital of the Holy Trinity near Edinburgh*; who shall have, for the support of his prebend, the fourth part of the fruits belonging to the rectoreal church of Strathmartin, in the diocese of St Andrew's, a two-pound land in the village of Fallahill in the lordship of Herriot-muir, an annuity of two merks out of the houses in Leith which belonged to William Chines, twenty shillings out of the village of Ersilton in the bailiery of Lauderdale, and two shillings out of the houses of John Allanson and John Lawson in Leith, at the terms of Whitsunday and Martinmas, twenty shillings out of the house of John Wauk in Edinburgh, five shillings year-

Richardus Fossard, Parsona ecclesiæ de
 Kylmalyn, Vicecomiti de Rokeburgh.
 Abbas

ly out of the house of Thomas Bishop of Dunkeld, six shillings and eight pence out of the village of Lawder, six shillings and eight pence out of the village of Strathmiglo, to be by us declared hereafter, as is more fully contained in the rental of *Soltre*; ten pence out of the village of Linlithgow, as is fixed in the rental; and five merk lands of Brotherstones and Gilston, within the territory of *Soltre*, with their limits, marches, and bounds: which Master of the hospital shall have the disposal of all the fruits designed for the maintenance of the poor of the said hospital, so to be limited, that he may carefully provide for all the necessities requisite, according to God and a good conscience; and to give to the provost and chapter an account of the profits twice in the year, and at other times, if required.

The second prebendary shall be called the *Sacristan*; who, for his maintenance, shall have the five-merk lands of Hill and Balerno; the five-merk land of Over Brotherstones and Gilston, within the territory of *Soltre*, to be limited by us as aforesaid, with a fourth part of the profits of the rectory of Strathmartin; and the said Sacristan shall have the disposal of the fruits appertaining to the chapter for buying the daily provision for the college, and shall account for the same to the prebendaries quarterly; and he shall keep the church neat and clean, and shall have the custody of the ornaments, jewels, and sacred vessels. He shall ring the bells, and furnish
 wine,

Abbas de Kelfhan, Vicecomiti de Rokef-
burgh.

Frater

wine, bread, lights, and other things, according to the custom of other churches.

The third prebendary shall be called the *Prebendary of Brotherstones*; and shall have for his prebend two merks worth of land of the lands of Brotherstones, to be appointed by us, and a fourth part of the profits of the rectory of Strathmartin.

The fourth prebendary shall be called the *Prebendary of Strathmartin*; and shall have for his support five merks worth of land of the lands of Brotherstones and Gilston, and a fourth part of the profits of the rectory of Strathmartin.

The fifth prebendary shall have the title of *Gilston*; and have for his prebend the five-merk lands of Brotherstones and Gilston, together with a fourth part of the profits of the rectory of Ormiston, in the diocese of St Andrew's.

The sixth prebendary shall be called *Ormiston*; and he shall have five merks worth of land of Gilston, and a fourth part of the profits of the rectory of the church of Ormiston.

The seventh prebendary to be called the *Prebend of Hill*; and to have for his prebend the lands of Balerno and Hill, and a fourth part of the rectory of the church of Ormiston.

The eighth prebendary shall be called the *Prebend of Newlands*, in the territory of *Soltre*; and shall have a fourth part of the profits of the said rectory of Ormiston, &c.

In witness whereof, we have to these presents af-
fixed

Frater Hugo, Minister Ordinis Sanctæ Trinitatis de Abirden, Vicecomiti de Abirden.

List of Ladies of Scotland who swore allegiance to the King of England in the year 1296. — Transcribed from the original in the tower of London.

Marjory of Grahame, — of Perthshire.

Eustachea of Chene, — of Banffshire,

Dernor Gulla of Chartris, — of Dumfriesshire.

Elisabeth of Langmuir, — of Weddale, part of Edinburghshire.

Isabella of Dundee, — Forfarshire.

Margaret of Penhook, — Ayrshire.

Alicea of Halyburton, — Berwickshire.

fixed our great seal, in presence of the Reverend Father in Christ Andrew Bishop of Glasgow, the Venerable Father Henry Abbot of Paisley, Andrew Lord Evandale, Chancellor of Scotland, George Earl of Angus, Alexander Lord Montgomery, and Sir John Ross of Halkhead, Knight, at Perth, the twenty-fifth day of March, in the year of God One thousand four hundred and sixty-two.

Agnes

Agnes of Burncastle, — Berwickshire.

Elene of Blair, — Ayrshire.

Elene of Pepdie, — Berwickshire *.

Anna of Newbotel, — Edinburghshire.

Maria of Keith, — Haddingtonshire.

Marjory of Sydeferf, — Haddingtonshire.

Johanna of East Nesbit, — Berwickshire.

Maria of Synton, — Roxburghshire.

Alicia of Halyburton and Dirleton, — Haddingtonshire.

Petronilla of — Edinburghshire.

Marjory of Craiglockhart, — Edinburghshire †.

Isabella of — Forfarshire.

Margaret of — Berwickshire.

Maria of Abernethy, — Forfarshire.

Maria Countess of Strathern, — Perthshire.

Isabella of Malenly, — Edinburghshire.

* Of this lady the Earls of Home, Marchmont, Dunbar, and Home of Wedderburn, &c. are descended.

† Craiglockhart was the ancient estate of the family of *Lockhart of Lee*.

Helena

Helena of — Haddington-
shire.

Alicea of Ormiston, — Haddingtonshire.

Marjory of Gordon, — Berwickshire.

Elene of Duddingstone, — Edinburgh-
shire.

Agnes of Craiges, — Edinburghshire.

Margaret of Lundy, — Fifeshire.

Mabilla of Congilton, — Haddingtonshire.

Eve of Lovel, — Aberdeenshire.

Sarra of Glen, — Peeblesshire.

Elifabeth of Rofs, — Forfarshire.

Rofa of Dolphington, — Roxburghshire.

*A list of the wives of the prisoners of Scot-
land, in England, in the year 1296.*

Agnes, — the wife of Alexander Minnerse.

Eve, — the wife of Alexander Cumming of
Badenough.

Agnes, — the wife of Richard, the son of
David, Marshall of Scotland.

Mary, — the wife of Duncan Scot, the son
of Michael Scot.

Emma, — the wife of William Clephan.

The Countess of Rofs, — the wife of the
Earl of Rofs.

The Countess of Athole, — the wife of the Earl of Athole.

Isabella, — the wife of Andrew Synton of Roxburghshire.

Alifcea, — the wife of William of Lindsay.

It is material to observe, that about this period King Edward of England used to summon the Ladies, as well as the Earls and Barons of his kingdom, to attend him in war. In the year 1291, he summoned the Ladies of Cumberland and Westmoreland to meet him at Norham, (a village near the Scotch border), accoutred with horses, arms, and all proper services. The consequences of this summons, it is believed, Scotland will never forget.

In the year 1294 he summoned a number of Ladies to his wars in Gascony.

Abstract of examples of territorial peerages.

James the third Earl of Morton had no male issue. James Douglas, the second son of George Douglas, brother of Archibald Earl of Angus, married the third daughter of this Earl. It is well known

G

that

that this James Douglas could not possibly be either the heir-male or heir-general of the third Earl of Morton.

In the year 1567, the said Earl of Morton granted a charter of the earldom of Morton, together with his whole other land-estate, in favour of the aforesaid James Douglas, and the heirs-male of his body, &c.

Queen Mary confirms this charter in the year 1564. Earl of Morton having died soon after, he was succeeded in his earldom by the aforesaid James Douglas, who, as has been already observed, could not possibly be either his heir-male or heir-general. Nor is it possible that ever James Douglas held his peerage of Morton by any other title than the charter of the earldom aforesaid. A strict search has been made among the writs of the family of Morton to discover if there was any patent of this peerage, unconnected with the land-estate, and it does not appear that any such exists. Although, as has been already observed, the records of Scotland are defective in the more ancient periods; yet it is evident that they are abundantly complete in the days of *Regent Morton*:
yet

yet there does not appear in all the records of this country the most slender evidence of a creation in favour of James Douglas. Therefore, until it shall be proved that he was created a peer by a patent unconnected with his land-estate, it must be presumed, that his charter of the earldom of Morton was the only instrument which authorised him to assume that dignity.

The same family of Morton affords another example of the territoriality of honours. In the year 1457, in the parliament of Scotland, the Chancellor declared the King's intention of raising Lord Dalkeith to a higher rank of peerage, by the title of *Earl of Morton*. In this parliament it happened, that William Lord Borthwick, the brother-in-law of Lady Dalkeith, was present, who had seldom been so in other parliaments. The mentioning of the erection of the dignity of Morton alarmed this Lord. He recollected, that the former Douglas, Lord Dalkeith, the husband of his sister, had devised the estate of Morton to William de Douglas, the son of his second marriage, and the nephew of the Lord Borthwick. Lord Borthwick therefore objected to the erection of this digni-

ty, in respect that it might prejudice the rights of his nephew William de Douglas. Upon which the Chancellor of Scotland replied, That the intended peer should not take his title of dignity from the lands and estate of Morton, the property of Lord Borthwick's nephew, but that he should take his title of honour from lands called *Morton* in another part of the kingdom.

The family of Hay, Lord Yester, now Marquis of Tweeddale, affords another striking example of the inseparable connection between the *estate of the peer* and the *peerage*.

In the year 1590, William Lord Hay of Yester resigned his lordship of Yester in favour of himself, and the heirs-male of his body; whom failing, to James Hay his brother-german, and the heirs-male of his body; and failing them, to a number of other heirs contained in the charter of entail following upon the resignation. Lord Yester, however, paid the common debt of nature before he had got infestment of this his new charter, leaving no heirs-male of his body.

In the year 1591, King James grants a
charter,

charter, precisely in terms of the former, in favour of James Hay, the brother-german of the aforefaid Lord. The particular clause ingrossed in this charter is so very material, that it must for ever attract the attention of the curious in a private capacity, and is every way well worthy of the notice of the supreme judges of the British legislature.

“ Insuper nos, ex nostra scientia et proprio motu, pro nobis et successoribus nostris, volumus et concedimus, qua dictus Jacobus, frater germanus antedicti Willielmi Domini de Yesta, heredes suæ masculi et talia respectiva et successive, supra specificat. omni tempore affuturo, habebunt, gaudebunt, et possidebunt votum in nostris parliamentis, conventionibus generalibus, conciliis, et omnes alios honores, dignitates, et præeminencias, quæ vel quas per dictum quondam Willielmum Dominum Hay de Zister, aliosve suos prædecessores aliquo tempore retroact. possessæ vel gavissæ fuerunt, simili modo, et adeo libere, ac si dictus quondam Willielmus Dominus Hay de Zister in
“ hereditario

“ hereditario feodo præfat. terrarum, ba-
 “ roniarum, dominiorum obiisset ; et ac
 “ si dictus Jacobus ejus frater germanus
 “ sibi in eisdem tanquam *heredi masculo et*
 “ *talliæ*, per brevia capellæ nostræ, intro-
 “ isset.”

It was about this period that the practice of making special grants of titles of honour began to prevail ; and in this very charter the vestiges of the territorial ideas most conspicuously appear. In our days, it is a matter of no consequence, whether the peer last in possession dies infest in his estate or not ; the title of honour still descends. A different notion, however, appears to have prevailed in the year 1590. Infestment seems to have been necessary, and a connection between the estate and the title of the peer appears to have been inseparable.

In the great family of Gordon a striking instance of the inseparable connection between the land-estate of the peer, and the title of honour thereon founded, appears. The first Gordon Earl of Huntley was thrice married. He settled his estate of *Huntley* upon the son of the third marriage,

riage, who accordingly succeeded in the estate, and was acknowledged by the estates of the kingdom to be Earl of Huntley. The peerage could not have been enjoyed by him under any other idea than as inseparably founded upon and connected with the land-estate; nor is it possible that if he had enjoyed it by any separate patent of honour, that this great family would have lost it, considering how important it was, and how carefully their other numerous writings have been preserved.

In a late claim of peerage, (the case of Sutherland), one of the claimants thought proper to set forth the following doctrine.

“ The law was stricter in the descent of
 “ peerages, than of lands. Thus the col-
 “ lateral heir-male of the first grantee of
 “ the land took the land; but the collate-
 “ ral heir of the patentee could not take
 “ the peerage, because not of the body of
 “ the patentee. This was so decided in
 “ the case of Oxfoord.”

When this state of the case is examined, the story set forth will not be found to have any foundation in the law of Scotland. Whether or not peerages went to collate-
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rals beyond the line of the person first ennobled, did not fall to be the subject of disquisition in the case of the peerage of Oxfoord in the year 1735.

That case stood shortly thus. In the year 1651, King Charles II. granted the dignity of Viscount Oxfoord, and Lord Macgill of Coufland, to Sir James Macgill, *his heirs male, of tailzie, and provifion, whatsoever.*

In the year 1735, James Macgill, the heir-male of the patentee, descended from the elder brother of the patentee's grandfather, claimed the peerage. He was not, however, the heir of provifion of the patentee, that character belonging to Robert Macgill of Cranfton-Riddle. The heir of provifion did not himself claim the dignity, but he opposed the claim of the heir-male.

On the 25th of April the claim was heard. James Macgill, the heir-male, claiming the dignity, was found to have the half of the character, but to want the other half, intitling him to take up the honours. He was heir-male; but he was not heir of tailzie and provifion. Under
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these

these circumstances, his claim was set aside. Had James Macgill been heir male, of tailzie, and provision, of the first Lord Oxfoord, the late decision in the case of Kirkcudbright, warrants us to suppose, that a judgement widely different must have been pronounced.

From the state of this claim, then, it appears, that the House of Lords had no occasion to determine, whether or not a peerage did descend to collaterals not descended of the body of the patentee. In the foregoing pages, it appears, that in the earlier period of the history of this country the question never arose; that, on the contrary, the heir of the dignified fief was always considered as heir of the honours.—Whatever judgement, or upon whatever principle pronounced, in a case like Oxfoord, it could not in any degree affect the succession to the ancient Feudal dignities of this country. In a dispute about the succession to any ancient dignity, Oxfoord may with propriety be considered as a creation of yesterday. It is the form of descent in such peerages as Morton, Lorn, and Evandale, that must

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rule

rule the succession of dignities of the same date *.

* It will not be disputed but that the following Scots peerages, not constituted by patent, have descended to collaterals beyond the line of the descendants of the body of the first peer ;

Evandale,
Carrick,
Morton,
Roths,
Lorn.

Although there is no immediate connection between the following *Treaties* and the foregoing subject; yet as I have caused copy them from the original for my own curiosity, I am hopeful the curious will not think it improper that they be hereto annexed.

Conventiones super Treugis Scotiæ.

AT Haudanſtank, the xxvi day of the moneth of October, the yher of grace M. CCC. LXXX. and XVIII.

Betwix Sire William of Borthwic, Sire John of Remorgny, Knightis, and Adam Forſtar, Squier, Commiffairs of a hey and myghti Prince the Kyng of Scotland, on the ta part, and Sire John Buffy, Sire Henry Grene, Knyghtis, Maiſtre William Feryby, Clerk, and Lawrence Dreu, Squier, Commiffairs of a hey and myghti Prince the Kyng of England, on the tother part,

It is accordit in the manere efter followand.

In the firſt, forthi that it was accordit and ordaint throu, myghti Princes and Lordis, the Dukes of Rotheſay and of Lancaſtre, That al manere of priſoners that has bene takin on bath the fides, ſen the begynnyng of the trewis, tane at Lollyngame the yher LXXX and nyne, fuld be frely deliverit, and thai that raunſon had payit, their raunſon till have bene reſtorit to thaim befor the feſt of Myſſommer laſt paſt, as it apperis plainly be the endentures tharof mad, of the qwhilk ordenance ful execution is noght mad till this tyme.

And therefor the Commiffairs forſaid will and ordains, That ful and deu execution be made of the ſaid ordenance in this manere, (that is to ſay),

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That

That al prifoners that are undeliverit be freli deliverit before the feft of Alhallowmeffe that next commis; and al thai that raunfon has payit fal have their raunfom reftorit til thaim before Kandilmeffe day that next commis.

To the fulfilling of the qwhilk, the Erle of the Marche, Wardain of Eft Marche of Scotland is oblift, be his letter to Sire Henri Percy, Wardain of the Eft Marche of England, and the faid Sire Henry is oblift, be his letter to the faid Erle, aithir for his boundis agaynis other.

And Sire Richard of Rothirfurde, Sire Willame Stewart, Knyghtis, Walter Scot, Thomas Tornebule, and Robert of Lawedre, ar Borowis for the Erlis boundis of Douglas of the mydil marche.

And Sire Thomas Gray of Heton, and Sire Thomas Gray of Horton, Knyghtis, Robert Umfravile, fon of Mydforde, and Thomas of Knayton, are borowis for Sire Henry Percy's boundis for the Eft March.

The qwhilk borowis ar aither oblift till other in gud faith; and ye forfaid commiffairs are bondin, in thair Kyng's name, for al prifoners and raunfons of withowt the boundis of the marches.

And gif it happens, that ony prifoner or prifoners be with-haldyn agaynis this ordenance, he or thai that haldis thaim fhall be conftreignyt be the Lordis Commiffairs to bath the Kyngis, at thair metyng at dayis and placis under written, to
deliver

deliver the said prisoners frely, and affith thaim of the harmis that thai have susteint in deffault of their deliverance efter this ordenance, and for to pay the valeu of the prisoners raunfond to the said Lordis Commissairs, for their disobeissance.

And gif ony raunson be unrestorit at the fest of Kandilmesse forsaid, the with-holders sal be constreignyt, be the said Lordis, to restore the raunson or raunsouns to the parties, and to pay the double to the Lordis for their disobeissance.

Item, It is accordit and ordaint, That all prisoners that has bene takin on baith the parties sen the xvi day of the moneth of March that last was, ar, and sal be quicly and frely deliverit, with their hors, and their harnes, restorand the harmis that thai did in the tyme of the takyng qwhen thai reffave thair hors and thair harnais.

And gif ony be ranfoun, and thair ranfouns payit, partie or all that ranfoun sal be restorit to thaim before the fest of Kandilmesse forsaid, upon the payn of paying the double in the manere forsaid.

And all prisoners that are lattin to borgh, and al men that are borewis for payment of raunsouns, sal be frely dischargit of payment, and of entre, withouten reprove.

Owtane, that Adam of Gordon, William the Barde, and Adam Franche, ar lattin to borgh to the said Commissairs of Scotland, for til appere at the next day of metyng of the gret commissairs

missairs of bath reaumes, under the payne of thre M. Pounce.

Ye quhilk commissairs ar oblist, in thair Kyngis name, for til appere the said persones before the said Lordis Commissairs as hale men and founde, under the payn foresaid, for til undergang and fulfil the ordenance of the said Lordis Commissairs of it, that fall be said agaynis thaim; and alswa that thai sal noght do, ne ger do, agaynis the Kyngis trewis in the mene tyme.

And the cause is, that ther men ar noght frely deliverit, forthi that it is borne thaim on hand, throw the partie of Ingland that thai ar, and has bene commoun trew-brekars, and unmesuret harmis has done within the tyme of this trewis, the knowlage of the quhilk the Commissairs foresaid thynkis mast sittand to the foresaid Lordis.

Item, Forthi that commoun vois is, on bath the fidis, that Scotismen borne reffaut to the feute of Ingland, and dwalland on the marches of Ingland, and Inglisshmen borne, reffaut to the feute of Scotland, and dwelland on the marchis of Scotland, are principale cause of distroublance of the quiet of bath the reaumes, it is accordit and ordaint, That fra hein fortawart thar sal na Scotisman be reffaut to ye faith of Ingland, ne nahe Inglisshman to the faith of Scotland, the qwhilest that the said Commissairs mak relation to bath thair Kyngis of this article; and thane gif it lik to bath the Kyngis, this ordinance sal be kepit endurant their trewis.

And

And tha Scottis borne men, that now ar ref-
faut fyn the begynning of thir trewis, ta the faith
of Ingland, fal be constreyngt to dwelle and mak
refidence on fouth half of the watir of Tyne in
Ingland before Candlemes next command.

And al the Inglish borne men refaut to the
faith of Scotland, fyn the begynning of the faid
trewis, fal be constreight to dwelle and mak resi-
dence als for fra the marches as Edynburgh be the
faid tyme.

And gif any on aither fide beis foundyn dwell-
and, command, or gangand, nerrar the marches
than the boundis foresaid, the officers of that
contre that he beis foundyn in fal be haldin,
throw vertue of thair oithis and office, to tak him
or them fwa brekand ordenance, and to deliver
him or thaim to the wardains of the marche of
the partie adverfe, to demain at their lyking; and
this ordence till be kepit, at the lyking of the
Kingis as is forsaide.

Item, It is accordit, That all marchantz, and
their gudis, that has ben tane be fe, or be land,
fen the begynning of the faid trewis, fal be frely
deliverit, withouten obstakil, on bath the parties,
with al gudly haft, (that is to say), tha that ar un-
affithet this day.

Item, For als mykil as thair has ben mony and
gret attemptance done fyn the begynning of ther
trewis on bath the fidis, ye qwhilkis ar unre-
dreffit to this tyme, the reformation of the qwhilkis
the faid Commiffairs ne may noght, for faut of
laifure,

laifure, at this tyme particularly, ger be refourmyd and amendit, it is accordit and ordaint, That the wardains of the marches throw thaimself, or throw their deputes, fall every moneth hald certainz dayis of redrefse, and gar refourm and redrefse al attemptats and myftakyngis that has ben done agynis ther trewis, after the tenure of the endentures mad, at Haudenftank, the 16 day of Marche last past; and qwhat tyme that that endenture be reformyd, it fal be leful to the party of Ingland til gif up qwhat bill ta thaim likis, the qwhilk fal be redreffit and affithit with the redrefse of the foresaid endentures; and thane, that done, the partie of Scotland fal gif up qwhat bille that thaim list, till be redreffit in the famyn manere.

And gif it hapins, (as God forbed), that any attemptat or attemptatz bene unrefourmyd or unredreffid, in deffaut of negligence of the wardains of the marches, or thair deputes, on owther partie, the said Lordis, at their metyng, fal tak knowlage, and ger try in qwais deffaut that attemptatz leins unrepaired and unamendit, and fal punice hym or thaim that bees fondyn deffautif, in fwilke manere that it be enfaumple til al other officers in tyme til come; and this fal be done at the metyng of the gret commiffairs before all other thyngs; and for to make cler knawying to the Lordis, in qwais deffaut the said redrefse leins unmade, it is ordaint, That the wardains, or thair deputes, fal

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endente,

endente, at ilk day and place, the manere of thair departyng.

Item, It is accordit and ordainit, That for the mar fikir kepynt of the trewis in time till come, that gif ony man of the ta reaume dois harme within ye tother reaume, (as takyng or flaghter of men, or takyng of gudis, or brynnyg of houfis, or takyng of castell or forterefce), the wardains of the marches, gif he be within their boundis, fra thai be requirit, fal be haldyn for to bring that misdoar or misdoars to knowledge of marche, and qwha sa beis fondin culpable of any fik trespass, done in tyme til come, he or thai fal be deliverit to the partie that has susteint the fckath, to fla or raunfoun at thair lykyng; and castellis and forterefces fwa takin fall be deliverit; and gif plaint be, that ony fik misdoar be without the boundis of the marches, the conservatours of thair deputes, fal be haldyn to do and fulfil in the manere forsaid, on bath the partiez; purvay'd, That the heritages on bath the sidis stand in the fourme and vertue as is compris'd within the trewis.

Item, It is ordaint, That the garrisons of the castellis fal nought inquitte the habitans of the countre agaynis the vertu of the trewis.

And it is als wa ordaint, That na man fal distrouble the garnisons, ne let thaim to bryng ne to by thair vittailles, ne their meubles to thar castellis; and that the habitans of the contre fal do

thair devoirs and dewties to the castellis as the trewis wil.

Item, It is accordit, That to the fulfillyng of the articles befor written, and for othir special cause twochand both the reaumes, the Duk of Rothysay, or ellis som other gret Lord of the Kyngis blode of Scotland, with consel of the Kyngis of Scotland, sal be at Edynburgh the first day of Marche next command, or ellis on the Sunday thre wikis efter Pafe thar efter next, qwilke that it maist likand to the King of Scotland, of the qwhilk he sal gar certifie to the Kyng of Ingland be the fest of Yhole next command; and that the Duk of Lancastre, or ellis some other gret Lord of the Kyngis blode of Ingland, with counsel of the Kyngis of Ingland, with him, sal be at the Newcastle ane of samyn dayis, at the lyking of the Kyng of Ingland, of the qwhilk he sal ger certifie the Kyng of Scotland the Yhole that next commis.

And at qwilke day it lik to bath the Kingis, that the said Lordis, with consaille, be at the placis forsaid, it is accordit, That thai sal send thair messages entrechangeably, aither till othir, til certifie the willis of both thair Kyngis, swa that, or thai depart forthir fra the marches, thai sal mete at a certain day that be most likand to thai both, owther at Haudynstank, or ellis at some other place that be mar likand to bath the parties, and thair do and fulfil al that to thaim pertenis of this endenture.

Item,

Item, It is accordit and ordaint, That, to the execution of ther articles aboven written, the wardins of the myddil marchis, or thair deputes, sal mete at Gainelispeth on the morne after the fest of Saint Martin that nest commis, and swa fra moneth til moneth, at dayis and placis as it may be accordid betwix the said wardens, or thair deputes, ay quiles that all the articles aboven written be fully refourmyd and redressit, and on the Thorisday a sevenyght nest folowand, the wardains of the est marche, or their deputes, sal assemble to do and fulfil as is aboven written.

Item, It is accordit and ordaint, That na man, on nowthir side, sal gif ne tak tribute ne rounsons for protections, ne asseverances, endurand their trewis; bot that ilk man sal lelily kepe, and ger kepe, the Kyngis trewis withoute fraude or guyle.

Item, It is accordit, That the Kyng of Scotland sal ger certifie the Kyng of Ingland, before Yhole that nist commis, at qwhat day he may be fondyn in convenable place, qwher the King of Ingland may send his messages to see him swere to this trewis, and that the Kyng of Scotland may send til hym to se hym swere the samyn; and the cause of this delay is, that the Kyng of Scotland is occupyit in sik placis, qwhar it war noght eseful till the Kyngis messages of Ingland to come til his presence.

Item, It is ordainit and accordit, That all manere of man in both the reumes, sal have fredome

to follow their gudis, that beis stollin, or rest fra thaim, with honde and horne, out of the ta reaume in the tohir, at thair lyking, or in what gudely manere they list with owten bow and sphere; and that na man be fwa hardy to dis- trouble in to sik folowing on payne of tynfail of lyfe and lyme.

Alfwa it is accordit, That all skaithis that has been recoverit befor wardains, or thair deputes, on aither partie, sal be payit and assithit be Kandil- messe day that nest commis.

Yn the witnes of qwhilk thyngs, the Seel of Sire Williame of Borthnic, the Signet of Sire Jon of Romergny, and the Seel of the Abbot of Mel- ros, procurit throw Adam Forstar for the partie of Scotland; and the Seels of Sire Jon Buffy, and Sire Henry Grene, the Signets of Maistre Wil- lame Feryby, and Lawrens Dreu, for the partie of Ingland, to the parties of thise endenture en- terchangebly are put the place, day, and yher foresaid.

Sub tribus figillis, rubea cera expressis, penden- tibus a caudis pergamenæ.

Super Deliberatione Prisonariorum.

AT Hawdenstank, the xxviii day of October, the yhere of our Lord m. c. c. c. nynty and aught.

Betwixt Sire William of Borthewick, Sire John
of

of Romergeneſey, Knichts, and Adam Forſter, Squier, Commiſſairs of a Hey and Mythey Prince the Kyng of Scotland; and Sire John Buſſhy, Sire Henry Grene, Knichts, Maiſter William Fereby, and Lawrence Drew, Squier, Commiſſairs of a Hey and Mychty Prince the Kyng of Ingland.

It is accordit in the manere after followand.

In the firſt vynu it appers be an endenture made, at the place foreſaid, betwix Mychty Princes and Lordis, the Dukes of Rotheſay and of Lancaſter, the xvi day of Marce laſt paſſit, that all manere of priſoners that has bene taken on bathe the ſides ſyn the beginning of the trewes, tane Lewlynghame the yhere, &c. auchty and nyne, ſuld be quietly and frely deliverit.

Of the qwhilk Sire John Hamylton of Cadyaw, Sir John of Hamylton of Finyngalton, and ſyndry marchands of Scotland with thaim, beand taken in a ſhipp thruch William Gednay and his company, and accuſit, That you ſuld have dane agaynes the trewis, war and ar frely deliveryt, noht agayn ſtandand the accusation pretendit agaynes thaim.

Qwarefore it is ordaynd and accordit, thruch the Commiſſairs foreſaid, That yere ſhippe, and all your gudes, ore elles the price thereof, ſal be frely delyveryt to them in yis maner; the gudes that came to the Kyng's officers of England, the Kyng ſall garr pay and reſtore, and ye takers ſal be conſtreynet be your Kyng, to reſtore the ſurpluis eſter, as the plaintiffs may prove, ore ell deliver

deliver your bodys fore the gudes qwar you fail
of payement.

Item, Sire Ph. of Stanely, Capitaine of Roxburgh, gave a bille, Pleynand of the Erle Son of Douglas, and fundry men in the cumpany with him, of the qwhilke Sire Williame Stewart was ane, hat you had broken the brig of Roxburgh, brynt yair town, and spuylit that broken yair welles, and brynt their hay, and their fuell, to thair scathes of twa thowfsand pund ;

And forethy, that the said Sire William was present on the feylde, he was constreynit tyll answer tyll the said compleynt ; to the quhilt he answerit, sayand, That the brekying of the brig, the brynning of the hay and the fuel, hys Lorde dyd of purpose, thynkand, that he nicht do that lauchfully, nocht agyn standand the trewis ; forethy, that al was and ys Scoct mennys heritage ; nevertheles, qwhether it be fully justifabyle, or nocht, the kannocht say ; bot gif it beys determynit be the commissairs, an attemptate againe the trewis, it sal be amendit as it aw to be.

The brennyng and the sprething of the town he graunts till amend, as a thyng done agayne his Lord's defense, and alsa agayn the trewes.

The qwhilk answer herd, the said Commissairs has referrit the knallage of this article to thair Lordes for the heynefs of the mater.

Item, How swa that it is accordit in the grete indenture, That al maner of persons, on bath the fydes, sud be deliverit by Alhalowme's next command ;

command; the qwilke the commissairs forsaide are oblist for all persons beand without the boundes of the marches, for als mykell as persons may be with halden infeir marches of bathe the rewmes, the qwilke peraudventur may nocht fathfaylly be deliveryt.

It is accordit, that thaia gair all pearsons of without the boundes, be deliveryt with all gudely hast, that thai may sa that thai be deliveryt by Yhole next comand at the lattast.

In the witness of the qwhilk things, the Sele of Sire William of Borthwick, the Seignet of Sire John of Romergny, and the Sele of the Abbot of Melrofs, procurit throw Adam Forster for the partie of Scotland; and the Selis of John Busly and Sire Henry Grene, the Seignets of Maister William Fereby and Lawrence Drew, for the partie of England, to the partiez of this indenteris interchangeably are to put at day, place, and yhere forsaide.

Sub tribus figillis, cera rubea expressis, pendentibus a candis pergamenæ.

De appunctuamentis super Treuga antedicta.

AT Clochmabanestane, the vi day of November, the yere of Grace M. c. c. c. nynty and aught.

Betwix Sire William of Borthwick Knycht, and Roger of Gordown Sqwiere, Commissarez of
the

the Hey and Mychty Prince the Kyng of Scotlande on the ta parte, and Sire John Buffie and Sire Henry Grene, Knychtez, Maistre Willame Firiby Clerc, and Lawrence Drewe Squiere, Commiffaries of the Hey and Mychty Prince the Kyng of Ingland on the tothir parte.

It is accordit in the manere efter followand.

In the first, forthly, that it was accordit and ordainit, through Mighty Princes and Lords, the Dukys of Rothesay and of Lancaſtre, That all manere of prifoners that has bene takyn on bath the fyds fyn the begynning of the trewis, takin at Lollynhame, the yere and the laſt auchty and nine, ſuld be frely deliverit, and thai that ranſowne had pait the rawnſon til half bene reſtorit to thaim before the feeſte of Mydſomer laſt paſt, as it appers plainly be the endentures thereof made; of the qwilk ordenance ful execution is nocht made til this tyme.

And thairfore the Commiffairs forſaid will and ordanyt, That full and due execution be made of the ſaid ordennance in this menere; (that is to ſay), that al prifoners that are undeliverit be frely deliverit before the feeſte of Saint Martin that neſt commis; and all thai that raunſon has payit, ſal haf their raſom reſtorit til thaim before the faſtyngange Sonday that neſt commys.

To the fulfilling of the qwils, Sire John of Johnſtowin, Sire John of Corlel, Sire William Stewarte of Caſtel-mylke, Knychts, Harbarte of Corry, John of Carruthers, John of Glendowyn, Symown,

Symown of Glendowyne, Nicol Litel, Alexander Armstrong, and William Nykfon, are borrowis for the Erlis bounds of Douglas for the west march of Scotland.

And the samyn Knyghts and Sqwiers has heytht, before the said Commiffairs, be thare gude ffaithis, that thai sal well and trewly kepe their preventz trewis that are accepts by bathe the Kyngis, and that thai sal redrefs and gar be redressyt, wele and trewly, efter thair lele powair, all the attemptats done syn the begynnyng of the said trewis, takyn at Lollynghame, without frawde or gyle, efter the fourme and the effect of the said endenturs, made at Hawdenstank the xvi day of March last passit, be the foresaid Duks of Rothysai and Lancastre, and the fourm of the trewis foresaid; and at thai sal, with thair poware, lett al men of the party of Scotland that wuld passe thur thair bownds to do harme in England or til any Inglishman.

And John of Skelton, Lewtenant of the west marche of England, in borgch in the of the samyn marche semblably to do, and fulfill the said ordennance.

And Sire Peris Tilzoll, Sire Willame Culwey, Sire Willame of kee, Sire John of Simivili, Sire William of Swynburng, and Robert of Umfraville, Knychts, Willeme of Stappilton, Giffrey Tiliol, Rolland the Vaux, John of Dalmon, Richart of Salchela, Thomis of the Sands, Dikker of Skelton, and Willame of Temudulawe,

ere borrowis for the famyn bownds, to do and fulfil that that to thaim longys in this marche at thair lele poware, without fraude or gyle.

And the famyn Knychts and Squiers of Ingland has heytht, before the said Commiffairs to be thaire gude faythe, That thai fal weli and trewly kepe thir presentz trewis, that ar acceps by bath the Kyngs, and at thai fal redresse, and gar be redressyt, wele and trewly, efter thair lele poware, all attemptats syn the begynnyng of the faids trewis takin at Lollynghame, withouten fraude or gyle, efter the fourme and the effect of the foresaid endenturs madz at Hawdenstanke the xvi day of Marce last passyt, be fye forsaidez Duyks of Rothissay and of Lancastre, and the fourme of the trewis forsaide; and that thai fal, with thair powair, lett all men of Ingland that wald passe thur thair bownds to do harme in Scotland, or to any Scottis man.

And the foresaid Commiffairs ar bundyn, in thair Kyngis name, for all prisioners and ranfowns of without the bownds of the west marche.

And gif it happens that ony prifownere, or prifowners, be with-halden agaynis this ordenance, he, or thai that halds yaim, fal be constreynt be the Lords Commiffairs to baith Kyngs, at thair metyng, at day and place that thai fal and ordaine at thair metyng at the est march, before thair departing, for to be at the west march n thair awyne perfowne, or be suffisand commiffairs of thair Kyngis, to deliver the saidez prisioners, and
assythe

asslythe them of the harmes that thai haf sustenyt, in defawte of their deliverance, efter this ordnance, and for to pay the value of the prisoners ranfown, to the said Lordis Commissairs, for thair disobeyffance.

At qwilk daiz and place, the said Lords, or the said Commissairs, sal redrefs, and gar be redressyt, all manere of trespasse, and attemptatz done agayns the trewis, and the fourme of the endenturs made at Hawdenstank the xvi day of Marce and the xxvi day of October last passyt.

And gif ony ranfown be unrestorit at Fastingange Sondag forsaide, the withaldare, or the withaldars, sal be constreinyt, be the said Lords, to restore the ranfown, or the ranfowns, to the partize, and to pay the double to the Lords for thair disobeyffance.

Item, It is accordit and ordanyt, That all prisoners that has bene takyn on bath the partis syn the xvi day of the month of Marce at last was, er and sal be qwicky and frely deliverit with thair hors and yair harness, restorand the hermes that thai dyd in the tyme of thair takying qwen thai reffave thair hors and their harness.

And gyf ony be ranfown'd, and their ranfown pait party or al, that ranfowne sal be restorit to thaim befor Fastgang Sondag forsaide, in the payne of paying the double in the manere foresaid.

And al prisoners that are lattin to borgh, and al men that arr borrowis for payment of ranfowns,

ſal be frely diſchargit of payment, and of entre, withoutin reproſe.

And al obligations, ſeurties, and promeſſes, generalle or ſpecialle, made for priſoners or ranſons, and al othir chargis that is put to thaim be ony colour of band or borowe, becauſe of thaire taking, ſal be voyde, and want thair ſtrength and effect.

And wa ſa dois agayne this ordenance, he ſal be conſtreygnt be the ſaidz Lords, or their Commiſſairs, to pay the double to them of that that he ask.

Item, Forthy that commowne voiciis, on bathi the ſyds, that Scotis-men born reſavyt to the fewte of Inglande, and dwelland on the marches of England, and Inglis-men borne, reſſauyt to the fewte of Scotland, and dwelland on the march of Scotland, are principale caws of the diſtrowblance of the quiete of bathe the rewmez,

It is accordit and ordanyt, That fra hyn forwarde thare ſal na Scots man be reſavyt til the fewte of England, ne nane Inglis man til the fewte of Scotland, the qwils that the ſaid Commiſſairs mak relation til bath thar Kyngs of this article ;

And thain, yf it lik to bath the Kyngs, this ordenance ſal be kepit endurant the trewis ;

And that Scottis borne men that now ar reſſavit ſyn the begynnyng of the trewes til the fewte of England, ſal be conſtreignyt to dwelle and mak reſidence als fer fra the marche as the bowis in England, before Candilmes neſt command ;

And

And all the Ingles-borne men reſſavyt to the fewte of Scotland fyn the begynnyng of the ſaidz trewes, ſal be conſtreignyit to dwelle and mak reſidence als fer fra the marches as Pebles, Crawford, or Corſnecon, be the ſamyn tyme ;

And gif ony of aither ſyde be fundyn dwelland, command, or gangand, nerrer the marches thane the bownds forſaid, the officers of that contre that he beis fundyn in, ſal be haldin be the vertue of thair othys and office, to tak hym or thaim ſwa brokand this ordennance, and to deliver hym or thaim to the wardanys of the marche of the partie adwers to demayne at thair likyng.

And this ordennance is to be kepit at the likyng of the Kyngs as is forſaid.

Item, It is accordit, That al merchands and thaire guds, that has bene takin by ſee or by lande fyn the begynnyng of the ſaid trewis, ſal be frely deliverit, withouten obſtacle on bath the partize, with all gudly haſt, (that is to ſa), tha that ar unafflyth this day.

Item, For alſmeikl as thare has bene mony and gret attemptatz done fyn the begynnyng of their trewez, on bath the ſyds, the qwilk ar unredreſſyt to this tyme, the reſourmation of the qwilk requers great laiſere and tyme, the qwilk the ſaid Commiſſairs ne may notht at this tyme, partic'larly ger be reformyt and amendit.

It is accordit and ordanyt, That the wardanys of the marches thr'w thaim ſelf, or thr'w thair deputz, ſal everilk moneth hald certene daiz of redreſſe,

redresse, and ger refourme and redress al attemptatz and mystakyns that has bene adone agenez thir trewiz efter the tennour of the endenturs, made at Hawdenstank the xvi day of March last passyt.

And gyf it hapyns (as God forbede) that ony attemptate, or attemptats, bene unreformyt or unredressyt in defawte or necligence of the wardanys of the marche, or thair deputz or owthir partie, the saidz Lords, or the sayd Commissairs, at their metyng at the est marche, sal tak knowlage and ger try in qwais defawte the attemptatz levys unreparit and unamendit, and sal punyfs hym or thaim that beis fond in defawtife in swilk manere, that it be ensawmple til al uther officers in tym to com : and this sal be done at the metyng of the Grete Lords, or thair Commissairs, befor al othir thing.

And for to mak clere knowyng to the Lords in qwais defaute the said redress levys unmade, it is accordit, that the wardanys, or thair deputz, sal endent at ilk day and place the manner of thair departyng.

Item, It is accordit and ordanyt, That for the mar siwirr kipyng of the trewis in tyme to come, that gyf any man of the ta rewme, (as takyng or slaghter of men, or takyng of guds, or brynnyng of howses, or taking of castel or fortrefs), the wardanys of the marche, yf he be within thair bownds fra thai be requerit, sal be haldin for to bryng the mysdoer, or mysdoers, to the knowlage

lage of the marches ; and qwa fa beis fundyn culpable of ony fylk trespas done in tyme to come, he or thai fal be deliverit to the party that has sustenyt the scath, to fla or ranfown at thair likyng, and castel and fortrefs fwa takin, fal be deliverit ;

And gyf plaint be that ony filk mysdoer be withouten the bownds of the marche, the Conservatours, or their deputs, fal be haldin to do and fulfil in the manere forsaide of bath the partize ; purvait that heritages on bath the fyds stand in the fourme and vertue as is compris'd within the trewes.

Item, It is accordit and ordanit, That to the execution of the articles abovyn writtin, that the wardanys of the west marche of Scotland, or his deputs, fal mete at Clowthmabanestan for Galway, Nythysdale, and Annalerdendale, with the wardane of the west marche of Ingland, or his deputs, the Thorysday the xvi day of November, for to redresse and refourme al attemptats done agayne the vertue of their trewis, efter the fourme of the saidz endenturs, and fa fra moneth to moneth, at daiz and places to be accordit betwix the saidz wardenez, or thair deputz, qwilez al attemptatz be fully redressyt, and at the same day and place thai of Cawfourd-mure fal appere to do, and mak redresse in the manere forsaide.

And in the semblable manere fal the saidz wardanes, or thair deputz, assemble at Kirkander the Mounownday the xviii day of this same moneth, for Elkdale and Lyddalysdale.

And

And thai of Tyndale and Ryddyfdale fal mete at the fame place of Kircander, with thai of the west marche of Scotland, at al thair daiz of redrefse, fra Mychelmas to Qwyffinday, and fra Qwyffinday to Mychelmes, thair daiz of redrefse fal behaldein at Crefshope bryg.

Item, It is accordit by the Commissairs forsaidez, That the deputes of the Erle of Douglas, Tevydale, and Jedeworth forest, fal assemble with the deputes of the wardane of the west marche of England, the day, the xxvi day of this moneth of November, at the said Crefshope bryg and fwa fra moneth to moneth, to refourme and redress al attemptats done on bath the fyds.

And the foresaid Commissairs of the Kyngs of Scotlande has heythit, in their Kyngs name, that at the said day and place, and sa fra moneth to moneth, the forsaide deputes of Tevydale and Jedeworth forest, fal appere, and do redress of al attemptats, after the fourme of the trewes and the saidz endenturs; and in the same wyse the Commissairs of England has heytht to be done on thair side.

Item, For alsmekil as the Commissairs of Scotland has allegyt, that deu reformation and redress of attemptatz has nocht ben done before this tyme; for that that on the party of England has bene grete changyng of wardanys on the west marche fyn the tyme of this trewis, the qwilk wil nocht redress, but ilke man for his awyne tyme;

It is grantyt be the Commissairs of Ingland, that the lewtenant of the west marche of Ingland sal haf suffizand poware, alswele of his legys Lord the Kyng of Ingland, as of the wardane of the said west marche, within twa moneths after this day, for to repair and redress all manere of attemptatz langand to his bownds, fyn the begynnyng of this trewes ;

And alswa that, be the same tyme, thair sal be ordanyt deputz of the Conservatours to mete at ilke day of redress, what the deputz of the wardanys to do, and fulfil that y to thair office withoutin the bownds of the marches.

Item, It is ordanyt and accordyt, That al manere of men of bath the rewms, sal haf fredome to folowe thair gudes that beis stollen or restit fra thaim, with hunde and horne, owt of the tawerme into the toyir, at thair lyking, or in qwhat gudely manere that thaim lyst, withoutin bowe and spere, and at na man be sa hardy to distroble ony man in syk folowyng, of payne of tysale of lyfe and lyme.

Item, It is accordit, That al scathis that has bene recoverit before wardayns, or thair deputez, on aythir party, sal be pait and assytht by Fastyngang, Sonnonday forsaide.

Item, It is accordit and ordanyt, That na man, on nouthir syde, sal gyf ne tak tribute ne ransomne for protections, ne assurances endurant this trewes ; but at ilk man sal lelyly kepe and ger kepe the Kyngs trewes without fraud and gyle.

In the witness of the qwilk things, the seele of Sire William of Borthwike, and the signet of Roger of Gordownz, for the party of Scotland, and the feel of Sire John Bufshy and Sire Henry Grene, and the signetz of Maistre Willame Ferly and Lawrence Drewe, for the party of England, to the partize of this endenturs entrechangiabley are put, the day, where, and place forsaidez.

*Sub sigillo, rubea cera expresso, pendente
a cauda pergamenæ. Alterum desidera-
tur.*

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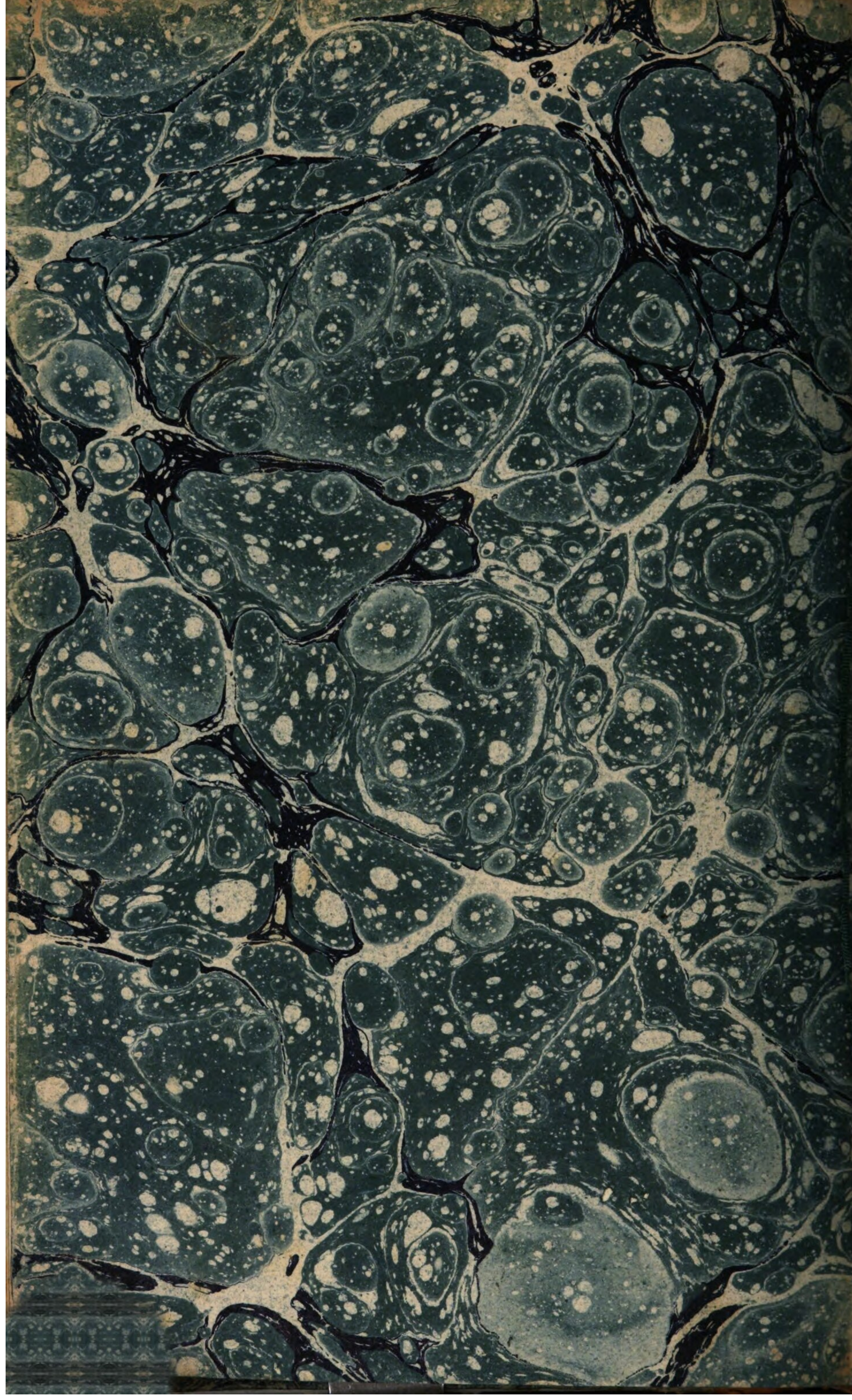
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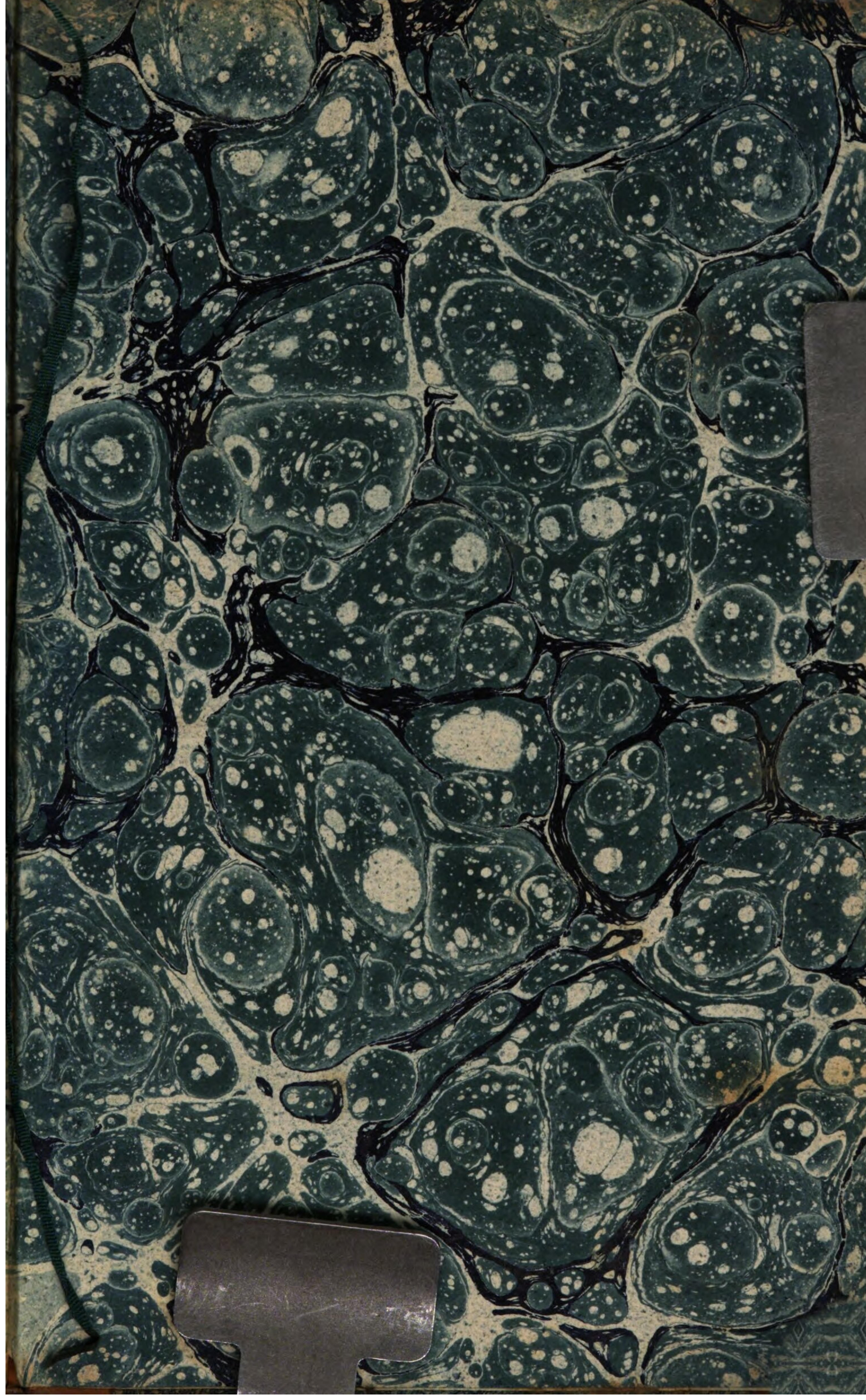
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